



## **RULES OF PROCEDURE ZONING BOARD OF ADJUSTMENT**

### **Town of North Hampton**

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#### **I. GENERAL**

- A. These Rules of Procedure (the “Rules”) are adopted by the North Hampton Zoning Board of Adjustment under the authority of New Hampshire Revised Statutes Annotated (NH RSA) 676:1.
- B. These Rules are also adopted pursuant to the requirement set forth in NH RSA 676:2. To the maximum extent possible and practical, these Rules shall also apply to properly convened joint meetings of boards as defined in NH RSA 676:2.
- C. These Rules shall govern the procedures by which the Zoning Board of Adjustment of North Hampton (“the Board”) shall conduct its business.
- D. Unless otherwise described, “the Board” shall mean five (5) Board Members or Alternates, unless fewer are accepted by an Applicant appearing before the Board on any matter; and, “Board Member” shall refer to a Full-Time Member of the Board, or an Alternate chosen under these Rules to sit on a matter in the stead of a Full-Time Member.

#### **II. ORGANIZATION**

- A. Annually, the Full-Time Members of the Board shall elect Officers at the first regular meeting, which occurs following action taken by the Board of Selectmen to appoint a “Full-Time Board Member(s)” and/or “Alternate(s).”
  - B. The Officers of the Board shall include a Chair, a Vice-Chair and such other officers as the Board may determine. The Officers shall serve until they resign, they are no longer Members of the Board, or until their successors have been duly elected under Rule II, A. above.
  - C. The duties and responsibilities of the Officers are as follows:
    - 1. The Chair shall preside over all meetings of the Board; may act on behalf of the Board on matters specifically authorized by the Board; and, shall perform such other duties as are customary to the office or are as otherwise described in these Rules, such as, for example, issuing Decision Letters.
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**RULES OF PROCEDURE  
ZONING BOARD OF ADJUSTMENT  
Town of North Hampton**

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2. The Vice-Chair shall exercise the duties of the Chair in the absence, disability, or unavailability of the chair or when the Chair specifically requests.
3. In the absence, disability or unavailability of both the Chair and Vice-Chair, the Full-Time Board Member present with the most seniority shall exercise the duties of the Chair for purposes of presiding over the meeting until such time as either the Chair or Vice-Chair is available or not absent.

**III. COMMUNICATIONS; APPLICATION FOR RELIEF; PUBLICATION**

- A. All communications to the Board shall be in writing and directed to:

Zoning Board of Adjustment  
Town of North Hampton  
P.O. Box 710  
233 Atlantic Avenue, 2<sup>nd</sup> Floor  
North Hampton, NH 03862-0710

Attention: Chairperson

- B. Applicants shall enclose an original and ten (10) copies of all communications to the Board. All original communications/documents shall be kept by the Zoning Administrator in the permanent Town Records.
- C. Application(s) For Relief (“Applications”) shall set forth in reasonably complete detail all matters for which relief is being requested. All prior actions by the Board shall be cited and copies of decisions or orders attached. Relief will not ordinarily be granted by the Board unless specifically requested.
- D. E-mail communications(s) or other form of electronic communications(s) shall not be deemed an official communication to the Board and are discouraged.
- E. All Applications filed for consideration by the Board shall be on forms approved by the Board, and shall not be considered by the Board until complete in all respects. The initial determination as to “complete” shall be made by the Zoning Administrator; provided, however, that the Board reserves the right to review and/or reject such determination.

**RULES OF PROCEDURE  
ZONING BOARD OF ADJUSTMENT  
Town of North Hampton**

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- F. All communications from an Applicant or interested person shall be available to members of the Board, by placement in the respective mailbox of each member at the Town Office, within twenty-four (24) hours of receipt by the Zoning Administrator.
- G. Newspaper publications of Notice as prescribed by statute shall be made in the Hampton Union/SUNDAY Herald edition of Seacoast Newspapers, and/or the Portsmouth Herald if necessary.
- H. All expenses incurred by the Board in connection with any Application shall be borne solely by the Applicant, unless otherwise waived by the Board for reason of special circumstance upon written request of an Applicant.

**IV. MEETINGS**

- A. Regular Meetings of the Board shall be held on the fourth (4<sup>th</sup>) Tuesday of each month at 6:00 PM, excluding the month of December whereas the Board does not meet in the month of December. A Special Meeting(s) of the Board may be held at the Call of the Chair, or at the request of three (3) Regular members, provided that Notice of each such Special Meeting must be posted and published in the same manner as prescribed for a Regular Meeting. The Board by majority vote may alter its Regular Meeting date schedule, as appropriate, to accommodate for Holidays, or other scheduling anomalies.
- B. Notice of all meetings whether, Regular, Special or “Work Sessions,” so called, shall be posted/published as required by the laws of the State of New Hampshire and the Town of North Hampton Zoning Ordinance (the “Zoning Ordinance”); provided, however, that under no circumstances shall a meeting be conducted by the Board on less than seven (7) days’ posting of Notice of such Meeting, and notice having been given in writing to each Full-Time Member and Alternate(s).
- C. An “Emergency Meeting” of the Board, as such term is defined in NH RSA 91-A:2, may be convened in the manner prescribed by such statute.
- D. The Chair may cancel a Regular Meeting if there are no applications pending for reasons of: (i) no filings, or (ii) request(s) to withdraw, or otherwise defer a Public Hearing on an Application has been filed by such Applicant.

**RULES OF PROCEDURE  
ZONING BOARD OF ADJUSTMENT  
Town of North Hampton**

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- E. Every attempt will be made by the Board to receive testimony at a Public Hearing and render a decision on all Applications timely and properly filed; provided, however, if in the opinion of the Chair, it appears that all of the business of a Regular Meeting cannot reasonably be completed at a meeting before 10:30pm, and with the concurrence of a majority of the Board members present, the Board may opt to defer action on such Application(s), as to which business cannot be completed, to a date certain to be decided by the Board at the Meeting. In such event, and as to such matters, the Meeting shall be deemed recessed to such future date, location and time and need not require republication.
- F. The Board will not ordinarily commence consideration of an Application, or other matter filed by an Applicant or other member of the public, after 9:30 p.m. unless a majority of the Board Members present shall agree. The Board may waive this provision by a majority vote.
- G. As to matters addressed, Minutes shall be prepared, and Notice(s) of Decision shall be rendered, as prescribed by law and the Zoning Ordinance.
- H. Unless otherwise designated in a Public Notice, all meetings of the Board will be held at the North Hampton Public Library, Atlantic Avenue, North Hampton, NH.
- I. All persons appearing before the Board shall be sworn to the accuracy, completeness and truthfulness of both their testimony, and evidence submitted by them to the Board according to NH RSA 673:15.
- J. If fewer than all of the Full-Time Board Member(s) are present at a meeting or have recused themselves from a matter, Alternates shall be selected sequentially to sit and act in their place according to these Rules. When a Full-Time Board Member or appointed Alternate discovers the need to recuse himself/herself, he/she shall endeavor to notify the Chair as soon as possible and an Alternate shall be selected and appointed to serve by the Chair in his or her stead. Such Alternate shall have all the powers and duties of a Board Member and shall endeavor to continue to sit on the matter(s) to be considered until completed.
- K. Any member of the Public shall be permitted to observe, record, film and/or videotape Meetings so long as they are not disruptive and do not unreasonably interfere with the conduct of the Board's business. In the event of disruptions, the Chair, with the consent of a majority of the Board, may order the offending person(s) to leave the meeting room and/or cease the activities which are causing the disturbance.

**RULES OF PROCEDURE  
ZONING BOARD OF ADJUSTMENT  
Town of North Hampton**

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V. ORDER OF BUSINESS FOR MEETINGS, PROCEDURE

- A. All persons identified in RSA 676:6 as persons who have an interest in a matter shall receive notification of a Public Hearing prepared by the Zoning Administrator as therein prescribed.
- B. The order of Business for all Meetings shall normally be: 1 — Call to Order by the Chair, Roll Call and Introduction of Members; 2 — Report of the Recording Secretary; 3 — Statement as to Rules of Procedure; 4 — Swearing in of Witnesses; 5 — Old Business; 6 — New Business; 7 — Communications; 8 — Minutes; 9 — Adjournment. The Chair reserves the right to modify the order of agenda items as appropriate.
- C. Old Business and New Business, as a general matter, shall be considered in the following manner: 1 — The Application is read; 2 — Applicant(s) and/or his/her/its representative(s) present(s) their case; 3 — Those in favor speak; 4 — Those opposed speak; 5 — Applicant(s) and/or their representative(s) may rebut opposition testimony; 6 — Those opposed may rebut any new rebuttal testimony; 7 — If there are not further questions, the Public Hearing on that docketed item is closed; 8 — The Board deliberates; 9 — The Board votes; 10 — The Chair notifies all present of the decision of the board and their rights of appeal; 11 — Any Board member may, at any time, request of the Chair the right to make inquiry of the Applicant, the Applicant's representative, or any other persons speaking to the matter.
- D. Persons requesting to speak shall direct all comments to the Chair. All speakers shall state their name, address and interest in the case for the record. The Chair may refer comments or questions to any other Board member for response.
- E. Abutters, other persons with a direct interest in the Application, and Town Officials, or their agents, may submit evidence relating to the Application, as set forth above in Sub-Section III. A. Other persons whom the Board deems appropriate, may be recognized to speak by the Chair at the Public Hearing and/or may testify in person at the Public Hearing.
- F. In its discretion, the Board may reserve making a decision on an Application on the night of the Public Hearing based on the need to seek additional evidence or testimony, in which case the matter will be continued to a date certain.

**RULES OF PROCEDURE  
ZONING BOARD OF ADJUSTMENT  
Town of North Hampton**

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- G. Persons wishing to address the Board an/or present evidence are encouraged to submit their comments in writing to the Zoning Administrator, not fewer than five (5) business days in advance of the date of a Public Hearing. Ten (10) copies of any such material(s) shall be submitted, and shall be distributed to each Full-Time Board Member and/or Alternate as provided in Section III. F. above.
- H. The Chair shall have the discretion to request that persons indicating a desire to speak at a Public Hearing limit, or otherwise focus, their remarks to the subject matter, and to avoid repetition of information previously presented to the Board in prior testimony. A speaker, other than the Applicant and/or his/her advisor, shall normally be limited to two (2) opportunities to address the Board on any Application considered at a Public Hearing. Those wishing to present testimony are encouraged to submit their comments in writing in advance of a Public Hearing to assure that their comments will be considered by the Board, even if time prevents them from fully expressing their views at the Public Hearing.
- I. The Board shall electronically record all of its proceedings and, shall keep such recordings for an indefinite period so as to ensure existence of same at the time of any subsequent appeal(s) or court action(s), but in no case less than that required by law. Any person desiring a transcript of the recording must pre-pay the expense of the transcription performed at his/her request and must provide one (1) copy for the Town's Permanent Records. Any person engaging a stenographer to record a meeting shall provide a copy of such transcript at their sole expense to each Full-Time Board Member and Alternate; and shall make a copy available to any other interested person or party who requests same in writing, and who agrees to bear all expenses associated with the copying of same by Applicant. Any person desiring a copy of the Board's electronic recording must make their own copy in the presence of the Zoning Administrator.

**VI. BOARD MEMBERS**

- A. Full-time Board Members and Alternates shall bear in mind the "quasi-judicial" nature of their duties and shall take efforts to avoid an/or report any attempts by Applicant(s), or other interested persons or parties to hold ex parte communications.
- B. Any Full-time Board Member or Alternate who has publicly announced and/or filed for elective office in the Town of North Hampton, shall be disqualified from sitting on any matter to be decided by the Board until the Election process is complete.

**RULES OF PROCEDURE  
ZONING BOARD OF ADJUSTMENT  
Town of North Hampton**

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- C. Full-time Board Members who are unable to participate at a Meeting should endeavor to notify the Chair at the earliest possible time of their anticipated absence.
- D. Other than for scheduling, administration, or exchange of publicly available documents not produced or generated by or for the Board, Full-Time Board Members and/or Alternates shall not communicate by E-Mail as to Board business and/or decision making.

**VII. MISCELLANEOUS**

- A. All Applications requesting or requiring action by the Board shall be delivered to and recorded by, the Zoning Administrator on Board prescribed forms, which are attached to these Rules and incorporated herein by reference. Fees due must be submitted at the time of the filing of the Application or the Application will not be accepted. If any remittance is dishonored by a financial institution, the filing will be deemed null and void.
- B. Appeals to the Board pursuant to NH RSA 676:5 shall be filed not later than forty-five (45) days from the date of the aggrieved action.
- C. Time limits for an Applicant to take action to effectuate the subject matter of an Application, if approved, may be imposed by the Board as a condition to such approval. Such determinations will be made on a case-by-case basis, as the Board deems necessary and appropriate.
- D. The Board may, upon motion made by any Board Member, and by majority vote unless otherwise provided, waive compliance with any provision of these Rules.
- E. The Application submitted by an Applicant shall require written acknowledgement thereon by the Applicant/Designee of receipt of a copy of these Rules.
- F. Minutes of meetings are deemed “preliminary” in form and “non-definitive” until the Board acts at a Public Meeting to adopt them.
- G. The Application prescribes that certain actions be taken, and assumes several representations are made, by the Applicant as part of the filing of an Application. Applicants who are in “non-compliance” with prior Orders, Findings of Decisions of the Board will, in most instances, have any requests for further relief deferred until full compliance is attained or waived by the Board.

**RULES OF PROCEDURE  
ZONING BOARD OF ADJUSTMENT  
Town of North Hampton**

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- H. Unless waived by the Building Inspector after consultation with the Chairman, an Applicant seeking relief as to any parcel of land subject to the jurisdiction of the Board, shall obtain from the Building Inspector, a sign to be posted by the Applicant on such parcel and readily visible to a passer-by on the Town road or street fronting the parcel in a size and form to be determined by the Building Inspector and at the Applicant's sole cost and expense. Such sign shall identify the parcel (i) Tax Lot Number; (ii) Owner, (iii) the date on which the Board is scheduled to act on the matter, and (iv) and shall indicate that information concerning the matter is on file with the Zoning Administrator. The sign shall be posted as of the date of the filing of the application and shall not be removed by Applicant until the "appeal period," so called for requesting a rehearing shall have expired.
- I. These Rules may only be amended by a majority vote of the Full-Time Board Members, and only upon due public notice as set forth herein.

**Adopted: November 19, 2003**

**Current Amendment: January 24, 2006**

**Previous Amendments:**

- (1). 5/19/2004 Requirement for posting of sign on Applicant's property was deleted; Section VII. H.
- (2). 7/21/2004 Established regularly scheduled meeting location; Section IV. A.
- (3). 5/18/2005 Changed regularly scheduled meeting time and location; Section IV. A. and Section IV. H.
- (4). 1/24/2006 Added the clause "The Board does not meet in the month of December" and changed the word third to fourth; Section IV. A, and removed the word midnight from Section IV. E.

**ZBA MEMBERS' SIGNATURE:**

\_\_\_\_\_  
John Anthony Simmons, Chairman

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Michele Peckham, Vice Chairman

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Ted Turchan

\_\_\_\_\_  
Jennifer Lerner

\_\_\_\_\_  
Susan Smith

\_\_\_\_\_  
Notary Public/Justice of the Peace

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Accepted by Town Clerk